

Arnold Richer, #2751
Patrick F. Holden, #6247
RICHER & OVERHOLT, P.C.
Attorneys for Defendants Michie, Francik,
Cobos, Robinson, Emerson, Bryant and WBGI.
901 West Baxter Drive
South Jordan, Utah 84095
Telephone: (801) 561-4750
Email: aricher@richerandoverholt.com

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

WALTER L. WAGNER, an individual,	:	
Plaintiff,	:	Case No. 2:11-cv-00784-CW-PMW
v.	:	DEFENDANTS PRESTON MICHIE'S,
	:	KENNETH FRANCIK'S, LESLIE
PRESTON MICHIE, an individual, KENNETH	:	COBOS', MARK ROBINSON'S,
FRANCIK, an individual, LESLIE COBOS, an	:	ANNETTE EMERSON'S, AND STEVE
individual, MARK ROBINSON, an individual,	:	BRYANT'S MOTION TO DISMISS.
ANNETE EMERSON, an individual, STEVE	:	
BRYANT, an individual, and WORLD	:	District Judge Clark Waddoups
BOTANICAL GARDENS, INC., a Nevada	:	
corporation,	:	Magistrate Paul M. Warner
Defendants.	:	

Defendants Preston Michie, Kenneth Francik, Leslie Cobos, Mark Robinson, Annette Emerson, and Steve Bryant ("the Individual Defendants"), by and through its attorneys of record Arnold Richer and Patrick F. Holden of RICHER & OVERHOLT, P.C., and pursuant to the


Federal Rules of Civil Procedure (hereinafter "Rule" or "Rules") 12(b)(6) and DUCivR 7-1, submit the Individual Defendants' Motion to Dismiss Pursuant to Fed.R.Civ.P. 12(b)(6).

The Individual Defendants move to dismiss Plaintiff's First Amended Complaint for Damages and Injunctive Relief (the "Complaint") on the basis that Plaintiff Walter L. Wagner's ("Plaintiff") claims are barred under the doctrine of issue preclusion. Plaintiff's state-law defamation claims are barred by two prior state court decisions resolving the factual predicates of all of Plaintiff's defamation claims. The same issues which Plaintiff raises in this case have been fully and finally adjudicated by the three prior state court cases.

The Individual Defendants' Motion to Dismiss is accompanied by a Memorandum in Support of Motion to Dismiss submitted concurrently herewith.

DATED this 16th day of May, 2012.

RICHER & OVERHOLT, P.C.



Arnold Richer

Patrick F. Holden

Attorneys for Defendants Preston Michie, Kenneth Francik,
Leslie Cobos, Mark Robinson, Annette Emerson, and
Steve Bryant

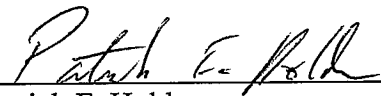
CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing **DEFENDANTS PRESTON MICHIE'S, KENNETH FRANCIK'S, LESLIE COBOS', MARK ROBINSON'S, ANNETTE EMERSON'S AND STEVE BRYANT'S MOTION TO DISMISS** to be delivered to the following in the manner and on the date below indicated:

☒ Mail
☐ Fax
☒ Email
☐ Hand Delivery

Walter L. Wagner
532 N 700 E
Payson, Utah 84651
retlawdad@hotmail.com
(Pro Se Plaintiff)

DATED this 16th day of May, 2012..



Patrick F. Holden
Attorney for Defendants